

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
SIDE JURISDICTION
CRIMINAL APPLICATION NO.1377 OF 2006
IN
CRIMINAL APPEAL NO.145 OF 2006**

Satish Sadanand Amin ...Applicant.
V/s.
The State of Maharashtra ...Respondent.

Ms. Noorseema M.V. Baig, adv. for the Applicant.
Shri Rajesh More, A.P.P. for the Respondent/State.

**CORAM: J.H.BHATIA, J.
DATE : 23rd January, 2007.**

P.C.:

1. Heard Ms.Noorseema and Mr.More, the learned APP for the State.

2. The present applicant is accused no.2 and he alongwith one more accused was convicted for the offences punishable under Section 395 read with Section 397 of the I.P.C. and was sentenced to undergo R.I. for 7 years and to pay a fine of Rs.500/-. He was also convicted under Section 341 read with Section 34 of the I.P.C. for which sentence of R.I. for one month was awarded. The applicant has preferred the criminal appeal no.145 of 2006 which is admitted. By this application, he seeks to be released on bail pending the final hearing and disposal of the appeal.

3. It appears from the police papers that the complainant was proceeding on a scooter alongwith cash. At that time, one car came from behind and 3 persons came out of the car. One of them was armed with chopper. Those 3 persons assaulted the complainant and robbed the amount of Rs.95,000/- from him. The present applicant was identified as the person who had actually assaulted the complainant with a chopper. The Applicant was not granted bail even during the trial. The learned A.P.P. points out that besides the present case, there are number of cases of robbery in which the present applicant is involved. He is already convicted in 2 theft cases. Three more cases of theft and robbery are still pending against him. The learned counsel for the applicant points out that even though only 3 persons have committed the offence of robbery, the learned Sessions Judge convicted the accused for the offences under Sections 395 read with Section 397 which indicates lack of application of mind. Even if the accused would have been committed under Section 392 read with Section 397, the sentence of imprisonment could not be less than 7 years. Therefore, even though this is a mistake, it does not make any serious difference. Taking into consideration nature of the offence and antecedents of the present applicant, I find that he is not entitled to be released on bail pending final hearing and disposal

of the appeal.

4. Application stands rejected.

(J.H.Bhatia, J.)